

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE ENROLLED ACT No. 1973

AN ACT to amend the Indiana Code concerning agriculture and animals.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 15-4-10-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6. As used in this chapter, "first purchaser" **means any person who purchases corn from a producer in a first purchase for any purpose except to:**

- (1) feed it to the purchaser's livestock; or
- (2) **manufacture a product from the corn for the purchaser's personal consumption.**

means a person who is engaged in Indiana in the business of buying grain from producers. The term does not include a buyer of grain who buys less than fifty thousand (50,000) bushels of grain annually for the buyer's own use as seed or feed.

SECTION 2. IC 15-4-10-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6.5. As used in this chapter "grain" has the meaning set forth under IC 26-4-1-13.

SECTION 3. IC 15-4-10-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 7. As used in this chapter, "market development" means:

- (1) to engage in research and educational programs directed toward increased utilization of corn;
- (2) to provide methods and means, including but not limited to public relations and other promotion techniques, for the



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~~maintenance of present markets for corn;~~

~~(3) (1) to provide for the development of new or larger domestic and foreign markets for corn; and~~

~~(4) to work toward the prevention, modification, or elimination of trade barriers that obstruct the free flow of corn;~~

(2) to promote the production and marketing of renewable fuels and new technologies that use corn; and

(3) to access federal government money available to the state to further the market development activities described in subdivisions (1) and (2).

SECTION 4. IC 15-4-10-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 12. (a) The Indiana corn marketing council is established.

(b) The council shall be composed of fifteen (15) members. ~~who~~ **The elected members from districts listed under section 16(a) of this chapter** must be:

- (1) ~~citizens of~~ **registered as voters in** Indiana;
- (2) at least eighteen (18) years of age; and
- (3) producers.

(c) Each **elected** member of the council must reside in the district identified in section ~~16~~ **16(a)** of this chapter from which the member was elected.

(d) Each member of the council is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the department of administration and approved by the state budget agency. However, council members are not entitled to any salary or per diem.

SECTION 5. IC 15-4-10-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 13. (a) The term of office of ~~a~~ **an elected or appointed** council member is three (3) years. A member's term of office expires at the end of the final marketing year in the term. However, a member continues in office until a successor who meets the qualifications set forth in section 12(b) of this chapter is elected.

(b) ~~A~~ **An elected or appointed** council member may not hold office for more than ~~two (2)~~ **three (3)** consecutive full terms.

SECTION 6. IC 15-4-10-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 14. (a) If ~~a~~ **an elected** member of the council ceases to meet one (1) or more of the qualifications set forth in section 12(b) of this chapter, the member's term of office terminates and the member's office becomes vacant.

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(b) When ~~a~~ **an elected** council member's office becomes vacant before the expiration of the member's term of office, the council shall fill the vacancy by appointing a replacement member who meets the qualifications set forth in section 12(b) of this chapter. The appointee shall serve for the remainder of the unexpired term.

(c) **When the office of a council member appointed under section 16(c) of this chapter to represent first purchaser organizations becomes vacant before the expiration of the member's term of office, the director shall fill the vacancy by appointing a replacement member who represents a first purchaser organization. The appointee shall serve for the remainder of the unexpired term.**

(d) **When an appointed council member's office representing the senate becomes vacant before the expiration of the member's term of office, the president pro tempore of the senate shall fill the vacancy by appointing a replacement member who represents the senate and is a member of the same political party as the appointed council member who vacated the office. When an appointed council member's office representing the house of representatives becomes vacant before the expiration of the member's term of office, the speaker of the house of representatives shall fill the vacancy by appointing a replacement member who represents the house of representatives and is a member of the same political party as the appointed council member who vacated the office. An appointee under this subsection shall serve for the remainder of the unexpired term.**

SECTION 7. IC 15-4-10-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 16. **(a)** One (1) council member shall be elected from each of the following districts:

DISTRICT 1. The counties of Lake, Newton, Jasper, ~~and~~ Benton, ~~DISTRICT 2: The counties of~~ Porter, LaPorte, Starke, White, and Pulaski.

DISTRICT ~~3:~~ **2.** The counties of St. Joseph, Elkhart, Marshall, Kosciusko, ~~and~~ Fulton,

~~DISTRICT 4: The counties of~~ Carroll, Cass, Miami, and Wabash.

DISTRICT ~~5:~~ **3.** The counties of LaGrange, Steuben, Noble, Dekalb, Whitley, Allen, Huntington, Wells, and Adams.

DISTRICT ~~6:~~ **4.** The counties of Montgomery, Fountain, Warren, ~~and~~ Tippecanoe,

~~DISTRICT 7: The counties of~~ Vermillion, Parke, Putnam, Vigo, Clay, and Owen.

DISTRICT ~~8:~~ **5.** The counties of Clinton, Boone, Tipton, Howard,



~~and~~ Grant,

~~DISTRICT 9: The counties of~~ Hamilton, Madison, Hendricks, Marion, Hancock, Morgan, ~~and~~ Johnson,

~~DISTRICT 10: The counties of~~ Shelby, Rush, Bartholomew, and Decatur.

~~DISTRICT 11: 6.~~ The counties of Blackford, Jay, Delaware, Henry, Randolph, Wayne, Fayette, and Union.

~~DISTRICT 12: 7.~~ The counties of Sullivan, Greene, Knox, Daviess, ~~and~~ Martin,

~~DISTRICT 13: The counties of~~ Gibson, Pike, Dubois, Posey, Vanderburgh, Warrick, and Spencer.

~~DISTRICT 14: 8.~~ The counties of Monroe, Brown, Lawrence, Jackson, Orange, Washington, Perry, Crawford, Harrison, and Floyd.

~~DISTRICT 15: 9.~~ The counties of Franklin, Jennings, Jefferson, Ripley, Dearborn, Ohio, Clark, Switzerland, and Scott.

DISTRICT 10. All counties in Indiana.

(b) The dean of the school of agriculture at Purdue University or the dean's designee shall serve as an ex officio member of the council.

(c) The director shall appoint two (2) representatives of first purchaser organizations to serve as members of the council.

(d) The president pro tempore of the senate shall appoint one (1) member of the senate to serve as a member of the council. The speaker of the house of representatives shall appoint one (1) member of the house of representatives to serve as a member of the council. These appointed members shall at all times be members of different political parties. Notwithstanding any other law, the members appointed under this section are entitled to receive the per diem of members of the general assembly for time spent in attendance at the meetings of the council. Per diem of these members shall be paid by the council upon approval of the director.

SECTION 8. IC 15-4-10-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 18. (a) The ballot for the election of a district council member must bear the name of each producer who:

(1) meets the qualifications set forth in section 12(b) of this chapter; and

(2) files with the director, before June 16 of the year of the election, a petition in support of candidacy signed by ~~seventy-five (75)~~ **ten (10)** other producers who reside in the district.



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(b) The director shall provide petition forms upon request and shall make forms available at cooperative extension service offices located in the district. The director shall determine the position of names on the ballot by drawing lots and shall provide the producers who have qualified to have their names on the ballot with advance notice of the time and place of the drawing.

(c) No names other than the names of the producers who have qualified under this subsection may be printed on the ballot by the director. A name may not be written in on the ballot by a producer.

SECTION 9. IC 15-4-10-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 22. **(a)** The council shall do the following:

- (1) Elect a chairman, vice chairman, secretary, treasurer, and other officers the council considers necessary.
- (2) Employ personnel and contract for services that are necessary for the proper implementation of this chapter.
- (3) Establish accounts in adequately protected financial institutions to receive, hold, and disburse funds accumulated under this chapter.
- (4) Bond the treasurer and such other persons as necessary to ensure adequate protection of funds received and administered by the council.
- (5) Authorize the expenditure of funds and the contracting of expenditures to conduct proper activities under this chapter.
- (6) Annually establish priorities and prepare and approve a budget consistent with the estimated resources of the council and the scope of this chapter.
- (7) Provide for an independent audit and make the results of the audit available to all interested persons.
- (8) Annually publish, at the same time as the results of the audit, an activities and financial report, present this report to the budget agency and the budget committee, and make this report available to all interested persons.
- (9) Procure and evaluate data and information necessary for the proper implementation of this chapter.
- (10) Formulate and execute assessment procedures and methods of collection.
- ~~(11) Establish procedures to refund to a producer any assessment paid by the producer if the producer requests a refund.~~
- ~~(12)~~ **(11)** Receive and investigate, or cause to be investigated, complaints and violations of this chapter and take necessary action within its authority.

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~~(13)~~ **(12)** Take any other action necessary for the proper implementation of this chapter.

(b) Eight (8) affirmative votes are required for the council to take action.

SECTION 10. IC 15-4-10-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 24. (a) The council shall pay all expenses incurred under this chapter with money from the assessments remitted to the council under this chapter. ~~by first purchasers:~~

(b) The council may invest all money it receives under this chapter, including assessments, gifts, and grants, in any way allowed by law for public funds.

(c) The council may expend money from assessments and from investment income not needed for expenses for the purpose of market development.

(d) The council may not use money received, collected, or accrued under this chapter for any purpose other than the implementation of this chapter.

(e) The council may not expend more than ten percent (10%) of the money it receives under this chapter for administrative expenses.

SECTION 11. IC 15-4-10-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 26. (a) ~~Except as provided in subsection (b) concerning seed corn,~~ An assessment of one-half cent (\$0.005) per bushel is ~~imposed~~ **permitted** on all corn ~~grown and~~ sold in Indiana. The assessment may be imposed and collected on a quantity of corn only once, **and shall be collected by the first purchaser if the producer exercises the option under subsection (b) to be included in the assessment. An assessment shall not be conducted on the producer without the producer's written consent.** The rate of the assessment imposed by this section may be increased only by the general assembly.

(b) In conjunction with the producer's first settlement with the first purchaser following June 30, 2001, the first purchaser shall make available to the producer the forms granting the producer the option to be included in the assessment and inform the producer of the option to be included. If the producer desires to be included in the assessment, the producer shall complete and sign a form, in writing, indicating the producer's desire to be included in the assessment permitted by subsection (a). It is a producer's obligation to return enrollment forms to a first purchaser. The first purchaser shall keep a record of each producer's desire to be

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included in the assessment, as indicated on the completed forms. Forms completed by a producer shall remain in effect until repealed in writing by the producer and delivered to the first purchaser. The initial enrollment by producers who want to participate in the corn marketing program must occur from July 1, 2001, through August 31, 2001. Corn market development assessments collected by a first purchaser begin on September 15, 2001. A change in participation by a producer to be included in the assessment or to discontinue the assessment does not take effect until July 1 following the producer's election to change. The office of the commissioner of agriculture shall prescribe the forms to be used under this subsection and distribute the forms to the first purchaser prior to July 1, 2001. The council shall reimburse the office of the commissioner of agriculture for the costs of preparation and distribution of the forms required by this subsection from the funds the council receives under this chapter. Auditing fees collected from this program and all other programs by the Indiana grain buyers and warehouse licensing agency revert to the office of agriculture account to cover administrative costs.

(b) An assessment of one-half cent (\$0.005) per bag is imposed on all seed corn sold in Indiana. The assessment on a quantity of seed corn shall be collected and remitted by the seed retailer. For the purposes of this chapter, the retailer of a quantity of seed corn is the first purchaser of that seed corn.

(c) ~~The~~ If the producer indicates the desire to be included in the assessment permitted under subsection (a) by following the procedure described in subsection (b), the first purchaser of a quantity of corn shall deduct the assessment on the corn from the sum of money to be paid to the producer based on the sale of the corn. A first purchaser shall accumulate assessments collected under this subsection throughout each of the following periods:

- (1) January, February, and March.
- (2) April, May, and June.
- (3) July, August, and September.
- (4) October, November, and December.

(d) At the end of each period, the first purchaser shall remit to the council all assessments collected during the period. A first purchaser who remits all assessments collected during a period within fifteen (15) days after the end of the period is entitled to retain three percent (3%) of the total of the assessments as a handling fee.

SECTION 12. IC 15-4-10-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 30. (a) If a first

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purchaser fails to remit the assessments collected during a period defined in section ~~26(c)~~ **26** of this chapter within forty-five (45) days after the end of the period, the council shall contact the first purchaser and allow the first purchaser to present comments to the council concerning:

- (1) the status and amount of the assessments due; and
- (2) any reasons why the council should not bring legal action against the first purchaser.

(b) After allowing a first purchaser the opportunity to present comments, the council:

- (1) shall adjust the amount of the assessments due, if the first purchaser's comments reveal that the council's figure is inaccurate; and
- (2) may assess a penalty against the first purchaser of no more than ten percent (10%) of the amount of any assessments not remitted within forty-five (45) days after the end of the period.

(c) If a first purchaser fails to remit assessments after being allowed to present comments under subsection (a) or to pay any penalty assessed under subsection (b), the council may bring a civil action against the first purchaser in the circuit, superior, or municipal court of any county. The action shall be tried and a judgment rendered as in any other proceeding for the collection of a debt. In an action under this subsection, the council may obtain:

- (1) a judgment in the amount of all unremitted assessments and any unpaid penalty; and
- (2) an award of the costs of bringing the action.

SECTION 13. THE FOLLOWING ARE REPEALED [EFFECTIVE MAY 15, 2001]: IC 15-4-10-28; IC 15-4-10-29.

SECTION 14. [EFFECTIVE MAY 15, 2001] **(a) The definitions under IC 15-4-10 apply to this SECTION.**

(b) Notwithstanding IC 15-4-10-17, before June 1, 2001, the director shall notify producers of the district of the impending initial election and the procedure and deadlines to have a producer's name printed on the ballot by:

- (1) publishing a notice in a statewide agricultural publication;**
- (2) publishing a notice in a newspaper of general circulation in each county; and**
- (3) making the information available to the news media in each district.**

(c) Notwithstanding IC 15-4-10-13, as amended by this act, the initial terms of office for council members are as follows:

- (1) Council members from district 1, district 4, district 7, and**



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district 10 serve terms of three (3) years.

(2) Council members from district 2, district 5, and district 8 serve terms of two (2) years.

(3) Council members from district 3, district 6, and district 9 serve terms of one (1) year.

(4) One (1) council member appointed under IC 15-4-10-16(c), as added by this act, serves a term of three (3) years.

(5) One (1) council member appointed under IC 15-4-10-16(c), as added by this act, serves a term of two (2) years.

(d) This SECTION expires September 2, 2003.

SECTION 15. An emergency is declared for this act.

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Approved: _____

Governor of the State of Indiana

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